1 2 3	Mary Jo O'Neill, AZ Bar No. 005924 P. David Lopez, DC Bar No. 426463 Equal Employment Opportunity Commission 3300 N. Central Ave., Suite 690 Phoenix, AZ 85012-2504	
4	Telephone: 602-640-5016 Fax: 602-640-5009	
5	E-Mail: mary.oneill@eeoc.gov patrick.lopez@eeoc.gov	
6	Attorneys for Plaintiff	
7	IN THE UNITED STATES DISTRICT COURT	
8	FOR THE DISTRICT OF ARIZONA	
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10	EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,	Case No.: CV
11	 	COMPLAINT
12	Plaintiff,	COMPLAINT (JURY TRIAL DEMANDED)
13	vs. (
14	Gencare, Inc., d/b/a The Carillons,	
15	Defendant.	
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NATURE OF THE ACTION

This is an action under the Age Discrimination in Employment Act to correct unlawful employment practices on the basis of age. The Equal Employment Opportunity Commission ("Plaintiff" or "Commission") alleges that Defendant, Gencare, Inc., d/b/a The Carillons ("Defendant"), terminated Ellen Lang, Michael Chabak, and Erwin Sieghart because of their age.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 7(b) of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 626(b) (the

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"ADEA"), which incorporates by reference Section 16(c) and 17 of the Fair Labor Standards Act of 1938 (the "FLSA"), as amended, 29 U.S.C. §§216(c) and 217.

2. The employment practices alleged to be unlawful were and are now being committed within the jurisdiction of the United States District Court for the District of Arizona.

PARTIES

- 3. Plaintiff, the Equal Employment Opportunity Commission, is the agency of the United States of America charged with the administration, interpretation and enforcement of the ADEA and is expressly authorized to bring this action by Section 7(b) of the ADEA, 29 U.S.C. § 626(b), as amended by Section 2 of Reorganization Plan No. 1 of 1978, 92 Stat. 3781, and by Public Law 98-532 (1984), 98 Stat. 2705.
- 4. At all relevant times, Defendant has continuously been a Washington corporation doing business in the State of Arizona and Sun City and has continuously had at least 20 employees.
- 5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 11(b), (g) and (h) of the ADEA, 29 U.S.C. §§ 630(b), (g) and (h).
- 6. Prior to institution of this lawsuit, the Commission's representatives attempted to eliminate the unlawful employment practices alleged below and to effect voluntary compliance with the ADEA through informal methods of conciliation, conference and persuasion within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b)

STATEMENT OF CLAIMS

- 7. Since at least July 30, 2003, Defendant has engaged in unlawful employment practices at its Sun City, Arizona facilities in violation of Section 623(a)(1) of the ADEA, 29 U.S.C. § 623 (a)(1). The unlawful employment practices include but are not limited to:
 - a. Ellen Lang, Michael Chabak and Erwin Sieghart are individuals over the age of forty.

- b. They were all successfully performing their job as van drivers.
- c. Defendant terminated the employment of Ellen Lang, Michael Chabak, and Erwin Sieghart because of their age.
- 8. The effect of the practices complained of in paragraph 7(a)-(c) above has been to deprive Ellen Lang, Michael Chabak, Erwin Sieghart who are 40 years of age or older, of equal employment opportunities and otherwise adversely affect their status as employees because of their age.
- 9. The unlawful employment practices complained of in paragraph 7(a)-(c) above are willful within the meaning of Section 7(b) of the ADEA, 29 U.S.C. § 626(b).

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

- A. Grant a permanent injunction enjoining Defendant, its officers, successors, assigns and all persons in active concert or participation with it, from engaging in the termination of employees who are 40 years old or older because of their age and from any other employment practice which discriminates on the basis of age against individuals 40 years of age and older.
- B. Order Defendant to institute and carry out policies, practices and programs which provide equal employment opportunities for individuals 40 years of age and older, and which eradicate the effects of its past and present unlawful employment practices.
- C. Grant a judgment requiring Defendant to pay appropriate back wages in an amount to be determined at trial, an equal sum as liquidated damages, and prejudgment interest to individuals whose wages are being unlawfully withheld as a result of the acts complained of above, including but not limited to Ellen Lang, Michael Chabak, and Erwin Sieghart who are 40 years old or older, who were adversely affected by the unlawful practices described above.
- D. Order Defendant to make whole all individuals adversely affected by the unlawful practices described above, by providing the affirmative relief necessary to eradicate the effects of its unlawful practices, including but not limited to rightful - place

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Regional Attorney

s/P. David Lopez P. DAVID LOPEZ **Supervisory Trial Attorney**

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION 3300 N. Central Ave., Suite 690 Phoenix, Arizona 85012

Attorneys for Plaintiff